



Town of Darien

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Food Service Regulations

A Regulation Pertaining To the Sanitation of Food Service Establishments and Setting License Requirements, Inspection Requirements, Plan Review Requirements, Fees For Same, And Penalties For Violations.

I. Authority

These regulations are adopted pursuant Chapter 30, Section 30-1 of the Darien Code of Ordinances.

II. Purpose

In order to prevent the spread of disease and safeguard the health, safety, and welfare of the inhabitants of the Town of Darien and the general public, the Darien Health Department shall, through a program of inspection, education, enforcement of the Regulations of Connecticut State Agencies, and licensing, regulate food service establishments.

III. Definitions

A. Authorized Agent means any individual certified by the Connecticut Department of Public Health to inspect food service establishments and enforce the provisions of 19-13-B40, 19-13-B42, 19-13-B48 and 19-13-B49 of the Regulations of Connecticut State Agencies under the supervision or authority of the Director of Health.

B. Fee Schedule refers to those fees proposed by the Director of Health and adopted by the Board of Selectmen.

1. Annual Permit Fee is to be submitted with the Permit application/renewal. Annual Permits are effective from January 1 until December 31. Applications for new permits submitted after July 1 shall be prorated accordingly.

2. Late Fee refers to a fee for a food service establishment submitting its complete food service permit renewal application, permit fee, and supporting documentation after the expiration date of the previous food service permit.

3. Permit Reinstatement Fee shall be required whenever a Permit to operate a food service facility has been suspended or revoked and must be submitted before the Permit is reinstated. The Permit Reinstatement Fee shall be the same as the permit fee.

4. Plan Review Fee must be submitted in conjunction with an application to review plans for a new or renovated food service establishment.

5. Reinspection Fee shall be required whenever a food service establishment requests that a reinspection be performed in order to improve the Rating or inspection score. Such reinspections will only be performed after a written itemization of corrective measures is submitted together with the appropriate fee.

C. Food Service Classification means the categorization of a food service establishment based on the menu and type of food preparation within the facility. The Food Service Classification of the food service establishment shall be one of the following:

1. **Class I** means a food service establishment with commercially prepackaged foods or beverages only. No preparation, cooking, or hot holding of potentially hazardous foods except that commercially packaged precooked foods may be heated and served in the original package within four (4) hours.
2. **Class II** means a food service establishment using cold or ready-to-eat commercially processed food requiring no further heat treatment or cold beverages. No cooking, heating or hot holding of potentially hazardous foods is included, except that commercially packaged precooked foods may be heated and served in the original package within four (4) hours and commercially precooked hot dogs, kielbasa and soup may be heated if transferred directly out of the original package and served within four (4) hours.
3. **Class III** means a food service establishment having exposed potentially hazardous foods that are prepared by hot processes and consumed by the public within four (4) hours of preparation. A Class III food service establishment shall employ a Qualified Food Operator and a Designated Alternate.
4. **Class IV** means a food service establishment having on the premises exposed potentially hazardous foods that are prepared by hot processes and held for more than four (4) hours prior to consumption by the public. A Class IV food service establishment shall employ a Qualified Food Operator and a Designated Alternate.

D. Food Service Establishment means any place, other than a private residence, where food or drink is prepared or served, with or without charge, for consumption on or off the premises.

1. **Itinerant Food Vendor** is a person, firm or corporation who operates a mobile food service vehicle which moves to its customers and does not occupy a fixed location.
2. **Temporary Food Service Establishment** means any food service establishment that operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days, in connection with a fair, carnival, circus, public exhibition, farmer's market or similar transitory gathering.
3. **Seasonal** food service facilities are those which serve food six (6) months or less during the year.

E. Food Service Permit may be issued to a person, as defined in Section 1-267(12) of the Connecticut General Statutes, serving food or drink to the public. A permit may be issued for a specific time period, specific activity, and specific location.

Specific types of Food Service Permits are as follows:

1. **Initial Permit:** refers to a permit issued for a new food service establishment or for an existing facility that has had a change in ownership. An Initial Permit is valid for a thirty (30) day period.
2. **Annual Food Service Permit:** refers to a permit, renewed annually, issued for a food service establishment.
3. **Limited Permit:** refers to a permit issued to a facility owned or operated by a non-profit organization. Such facilities are used to prepare foods for special events only and are not regular food preparation and service operations.
4. **Temporary Permit:** refers to a permit issued to a person operating a temporary food service establishment.

F. Inspection Report means the report as provided by the Connecticut State Department of Public Health on which the demerit items marked identify the violations found in the food service establishment at the time of inspection.

1. **Critical Violation** means a violation that is more likely than other violations to contribute to food contamination, illness, or environmental health hazard. Such violations shall include four (4) point demerit items on the inspection report and any of the risk factors established by the Connecticut Department of Public Health as itemized in Appendix 1
2. **Imminent Health Risk Violation** refers to conditions found within a food service establishment that pose a significant immediate risk to public health which necessitates immediate corrective action or closure of the food service establishment.

G. Qualified Food Operator (QFO) means an individual employed in a supervisory position in a Class III or Class IV food service establishment for a minimum of thirty (30) hours weekly and who has passed a test administered by a testing organization approved by the Department of Health or has submitted documentation satisfactory to the Director of Health attesting to the individual's knowledge of safe food handling techniques as specified in the Regulations of Connecticut State Agencies Sections 19-13-B42 (s) (6), 19-13-B48 (j) (5), and 19-13-B49 (t) (5), as may be amended.

1. **Designated Alternate** means an individual appointed in writing by the Qualified Food Operator to assume responsibility for the activities within the food service establishment when the Qualified Food Operator is not present. The Designated Alternate shall submit documentation to the Director of Health attesting to his/her knowledge of safe food handling techniques as specified in Regulations of Connecticut State Agencies.

H. Rating means an appraisal of a food service establishment based in sum or in part on the following factors: the absence/presence of critical violations that are likely to cause foodborne illness as outlined in Appendix I, the absence/presence of chronic violations of the Regulations of Connecticut State Agencies, the facility inspection history and efforts to correct previously noted violations, the training and demonstrable knowledge of food service personnel, or overall sanitary conditions in the facility at the time of inspection. Ratings are only issued to Class 3 and Class 4 establishments; Class 1 and 2 facilities are not rated.

IV. Permit Requirements

A. No person shall operate a food service establishment within the Town of Darien unless a valid permit has been issued by the Director of Health or Authorized Agent. A permit shall be issued to and permitted to continue in effect for only those persons, corporations, establishments, or firms who comply with the requirements of these regulations, the Regulations of Connecticut State Agencies, and regulations promulgated by the State of Connecticut Department of Public Health, as they may be amended.

B. Permits shall not be transferable from one person or place to another person or place.

C. Any person desiring to own or operate a food service establishment shall make written application for a Permit on forms provided by the Darien Health Department. Such application shall include the name and address of each owner, the location of the establishment, the signature of each owner or its principal officer, and the Qualified Food Operator and Designated Alternate. The appropriate permit fee shall accompany the application.

D. All new Class III and IV food service establishments, or any other establishment discharging fats oils and grease must be served by grease recovery or grease interceptor units as approved by local building official

and the Department of Public Works. All existing food service establishments must comply with State DEP General Permit for the Discharge of Wastewater Associated with Food Preparation Establishments by July 1, 2011.

E. All permits shall be renewed annually. Permittees desiring renewal of such permits shall file an application with the Darien Health Department prior to the expiration date with the appropriate permit fee and documentation as specified in Section IV (C) of these regulations. For those establishments served by a septic system, verification of septic tank and grease trap maintenance must be submitted. For establishments served by sewers, verification of grease trap maintenance must be provided.

F. In the case that a food service permit renewal application, permit fee, and supporting documentation as specified in Section IV (C) of these regulations are submitted after the previous permit expiration date, a Late Fee shall be paid. If a permit is not renewed within thirty (30) days of the expiration date, ORDERS to close the establishment shall be issued by the Director of Health or Authorized Agent.

G. In the case of transfer of ownership of an existing food service establishment to a new ownership, the establishment shall be in compliance with Regulations of the Town of Darien and Connecticut State Agencies before a permit can be issued. New ownership shall be subject to the Initial Permit procedure as described in Section VI of these regulations.

H. Whenever a food service establishment changes to a different class as determined by the Director of Health or Authorized Agent, the facility shall be reclassified. No food service establishment shall change operations to a different classification without prior written approval from the Director of Health or the Director's Authorized Agent. At the time of reclassification written application for a new permit must be made by the applicant to reflect this change. The appropriate fee shall accompany the application. Any such establishment shall be subject to the Initial Permit procedure as described in Section VI of these regulations.

I. Permits shall be posted with the most current Rating in a conspicuous location clearly visible to the public within the food service establishment.

V. Limited Permits

A. Any organization that owns or operates a food service establishment that is used periodically for food preparation and/or service shall make written application for a Limited Permit on forms provided by the Darien Health Department. Such application shall include the name of the organization, contact person(s), and a summary of expected events to be held during the year.

B. Prior to approval of an application for a Limited Permit, the Health Department shall inspect the establishment to determine compliance with these Regulations, and the Regulations of Connecticut State Agencies.

C. If the establishment passes the inspection referred to in subsection (B) of this section, the Health Department may issue a Limited Permit to the organization owning or operating the food service establishment. The Limited Permit shall be valid for one year and renewed annually upon application by the organization. Such limited food service establishment shall not be subject to the Initial Permit procedure as described in Section VI of these regulations.

D. Ratings will not be issued for establishments receiving Limited Permits.

VI. Initial Permits

A. A preoperational inspection shall be conducted by the Director of Health or Authorized Agent to determine compliance with the approved plans and specifications, these regulations of the Town of Darien and Connecticut State Agencies. If the food service establishment passes the preoperational inspection, the Health Department may issue an Initial Permit effective for thirty (30) days. The issue date of an Initial Permit shall be on the day of the preoperational inspection. An Initial Permit shall be replaced with an Annual Food Service Permit when the food service establishment operations are deemed compliant with Darien Health Department Regulations and the Regulations of Connecticut State Agencies by means of an inspection conducted during this Initial Permit period. The failure of the Health Department to inspect the food service establishment within the thirty (30) days shall result in the automatic extension of the Initial Permit until the next inspection.

B. If the food service establishment is found to be noncompliant with these Regulations or the Connecticut Public Health Code requirements at the time of inspection during the Initial Permit period, the Health Department may renew the Initial Permit for an additional thirty (30) days. Should the establishment fail to achieve a passing score at the time of inspection during this extension period, a Hearing shall be held in accordance with Section XIV of these regulations. If a passing score is still not achieved after this Hearing, ORDERS to close the facility shall be issued by the Director of Health.

C. Ratings shall not be issued for food service establishments receiving Initial Permits.

VII. Temporary Permits

A. A completed application for a Temporary Permit should be submitted no less than 14 days before the event. The application for a temporary food service establishment shall include contact information, the dates the event will be held, primary food handlers, proposed menu, sources of food and a sketch showing the location of food storage and dispensing equipment. The appropriate fee shall be submitted in accordance with the approved Fee Schedule. If the proposed location is served by a well, a water analysis shall accompany the application verifying that the water meets the requirements of the Regulations of Connecticut State Agencies.

B. Permits issued to temporary food service establishments shall be issued for a period of time not to exceed fourteen (14) consecutive days and shall be limited to a one time renewal.

C. Vendors at farmer's markets who perform any food preparation or service must obtain a Temporary Permit from this office.

D. Failure to obtain a Temporary Permit could result in the food service establishment being excluded from the event.

E. Ratings will not be issued for establishments receiving Temporary permits.

VIII. Plan Review Approval

A. Whenever a food service establishment is constructed or an existing food service establishment is altered for use as a food service establishment, properly prepared plans and specifications for such construction or alteration shall be submitted to the Health Department for review and approval before construction or alterations may begin. Plans and specifications shall include the proposed layout, arrangement, and construction of all areas within the food service establishment and the type and model of all proposed equipment. All such equipment shall be National Sanitation Foundation (NSF) approved or equivalent. An application for plan review and approval shall be submitted together with plans, specifications and the appropriate fee as prescribed in the Fee Schedule. Such application shall include proposed number of seats, proposed class, a proposed menu, verification of connection to an adequate and safe water supply, documentation regarding the adequacy of wastewater and grease control system(s), together with evidence of the employment of a Qualified Food Operator and a Designated Alternate.

B. In no case shall renovations or alterations be made in an existing food service establishment without the permit holder or Qualified Food Operator obtaining prior approval of such plans from the Health Department.

IX. Inspections

A. All food service establishments shall be inspected by the Director of Health or Authorized Agent of the Director of Health, if such director or agent has been certified by the Commissioner of Public Health. As many additional inspections or reinspections shall be conducted as are necessary to enforce the Regulations of Connecticut State Agencies in the effort to protect the health of the public.

B. All food service establishments shall maintain a copy of the most recent inspection report at the permitted food service establishment. Upon request, the report will be available for review by the certified food service inspector.

C. All inspection reports, exclusive of those undergoing an appeal process, are public documents available during normal business hours at the Health Department office.

X. Ratings and Inspections

A. A Rating shall be provided by the Director of Health or Authorized Agent to the food service establishment's Qualified Food Operator or Designated Alternate with the inspection report during each inspection. Ratings shall be based in sum or in part on the following factors: the absence/presence of Critical Violations as described in Appendix I that are likely to cause food borne illness, the absence/presence of chronic violations of the Regulations of Connecticut State Agencies, the facility inspection history and efforts to correct previously noted violations, the training and demonstrable knowledge of food service personnel, or overall sanitary conditions in the facility at the time of inspection.

B. All Class III and Class IV food service establishments shall receive Ratings during inspections as follows:

- 1. Good:** A food service establishment shall receive a Good Rating when safe food handling practices with no critical violations as itemized in Appendix I were observed at the time of inspection and the facility was found to be in considerable compliance with the factors outlined in Section X (A)

2. *Fair*: A food service establishment shall receive a Fair Rating when the minimum requirements of the Connecticut Public Health Code were met at the time of inspection but improvements were needed in the food handling practices of food service personnel and the factors outlined in Section X (A).

3. *Poor*: A food service establishment shall receive a Poor Rating when chronic or critical violations that are likely to cause food borne illness were evident at the time of inspection, or the facility received a score below eighty (80) or had one (1) or more four (4) point demerit items in violation, or was not in compliance with the factors outlined in Section X (A).

C. All food service establishments must post their most current Rating provided during the inspection by the Director of Health or Authorized Agent. The Rating must be posted in a conspicuous location clearly visible to the public near the current permit and remain posted until the next scheduled inspection. If the owner or Qualified Food Operator (QFO), requests a reinspection in accordance with Section X(D) of these regulations, the Rating does not have to be posted until the requested reinspection is completed.

D. The owner or Qualified Food Operator of any food service establishment may at any time request an inspection for the purpose of improving the score or the Rating of the facility. Within 10 (ten) days following receipt of a written request for the reinspection, a signed statement itemizing the corrective measures that have been taken, together with the appropriate fee, the Director of Health or Authorized Agent shall make a complete reinspection and issue a new Rating as appropriate. There can only be one request for reinspection made for every regular inspection.

E. Ratings are not given with inspections performed for Temporary Events, Limited Permits and Initial Permits.

XI. Enforcement

A. If a food service establishment receives a Poor Rating, or fails an inspection with a score below eighty (80), or has one (1) or more four (4) demerit items at the time of inspection, the Authorized Agent shall itemize those items in violation to be corrected within two (2) weeks, whereupon the Agent shall make a complete reinspection and issue a new inspection report and Rating. If a food service establishment fails its regular inspection or receives a Poor Rating more than once within one year, the Director of Health shall hold a Show Cause Hearing with the owner and/or Qualified Food Operator. Methods for correcting violations and a timetable for achieving compliance must be submitted in writing by representatives of the food service establishment at the Hearing. If the methods for correcting violations are not completed within the agreed upon timetable, the permit may be subject to immediate suspension.

B. If a food service establishment receives a Poor Rating, or receives a score below eighty (80), or has one (1) or more (4) point demerit items in violation on its reinspection, the food service permit shall be subject to suspension or revocation in accordance with Sections XII, XIII and XIV of these Regulations.

C. If a food service establishment fails to post the most recent Rating as described under Section X (C) of these Regulations, the Director of Health shall Order the establishment to post its most current rating. If the Order is not followed, the Director of Health shall assess a fine in accordance with Section XVII of these Regulations.

D. If a food service establishment receives a Poor Rating or fails an inspection within two years of a previous permit Suspension, the permit may be revoked by Director of Health.

E. In the case that a Qualified Food Operator is not employed onsite, except as provided by the Qualified Food Operator replacement provision in Section 19-13B-42 (s) (7) of the Regulations of Connecticut State Agencies, the food service establishment has thirty (30) days to comply. If compliance is not achieved within this period, the Director of Health shall institute measures to suspend or revoke the Permit and ORDER the food service establishment to close.

XII. Suspension of Permit

A. The Director of Health may suspend a permit to operate a food service establishment if the permit holder does not comply with these regulations or the requirements of the Regulations of Connecticut State Agencies.

B. Prior to such action, the Director of Health shall notify the permit holder in writing by issuing a “*Notice of Intent to Suspend*” stating the reasons for which the permit is subject to suspension, and advising that the permit shall be suspended at the end of five (5) days following service of such Notice, unless an *Appeal* for a hearing is filed in accordance with Section XIV of these Regulations. If an Appeal is received, the Suspension will be held in abeyance until such Hearing is held and a decision is rendered.

C. In the event that a hearing request is not made by the permit holder, the suspension shall go into effect after five (5) days have elapsed from the date of the service of the Notice. At such time, an ORDER shall be issued by the Director of Health to cease all food service operations. No such operations shall resume without written approval of the Director of Health.

D. A suspended permit will be reinstated only after a satisfactory reinspection of the facility and payment of the permit reinstatement fee.

XIII. Revocation of Permit

A. When serious violations of any of the requirements of these Regulations or the Regulations of Connecticut State Agencies, are observed which may be considered to pose an imminent health risk to patrons of the establishment, or for interference with the Director of Health or Authorized Agent in the performance of their duties, the permit may be revoked and ORDERS to close the establishment will be issued by the Department of Health. The permit holder or person in charge shall immediately cease all food operations, and such operations shall not be resumed without written approval of the Director of Health.

B. Any Permit holder who has had their Permit revoked shall have an opportunity for a Hearing in accordance with Section XIV of these regulations.

C. A revoked permit will be reissued only after a satisfactory reinspection of the facility and payment of the permit reinstatement fee.

XIV. Hearings and Appeals

A. Show Cause Hearings shall be held by the Director of Health when deemed necessary and are required whenever an establishment fails two inspections or receives two Poor Ratings within one year. The QFO and owner of the food service establishment shall be given adequate notification of the time and location of the

Hearing and shall provide written documentation as to how compliance with the Regulations will be achieved.

B. Suspension Hearings shall be conducted by the Director of Health provided a written *appeal* for such action is filed with the Director of Health by the permit holder within five (5) days after a **NOTICE OF INTENT TO SUSPEND** has been provided in accordance with Section XII, B. Appeals for Hearings must include a written itemization of corrective measures taken to address those items noted as deficiencies in the NOTICE.

1. Suspension Hearings must be held within five (5) business days of the receipt of the written appeal from the permit holder.
2. A decision as to whether to suspend the permit shall be made within 24 hours of the Hearing.
3. A written report with conclusions and an itemization of any conditions agreed upon at the hearing shall be furnished to the permit holder within five (5) business days of the hearing date.

C. Permit Revocation Hearings shall be held if an Appeal is filed with the Director of Health within forty-eight (48) hours of service of the Notice of Permit Revocation and the ORDER to close. Hearings shall be held within five (5) days of the receipt of the Appeal which must contain detailed itemization of the corrective measures taken to address deficiencies cited in the ORDER. The establishment shall remain closed in accordance with the ORDER until a decision is made at the Hearing.

D. Upon the decision of the Director of Health to suspend or revoke the permit to operate, an **ORDER** to immediately cease all food preparation and service operations shall be issued. The owner of a food service establishment who is aggrieved by such ORDER of the Director of Health may, within forty-eight (48) hours, *appeal* to the Commissioner of Public Health who shall thereupon immediately notify the authority from whose order the appeal was taken and examine into the merits of such case and may vacate, modify, or affirm such action. Copies of any such appeals must be filed with the Director of Health.

XV. Right Of Entry To Inspect

The Director of Health or his Authorized Agent, after proper identification, shall be permitted to enter during business hours or at any other reasonable time, any food service establishment for the purpose of making inspections to determine compliance with these Regulations and Regulations of Connecticut State Agencies. The Director of Health or Authorized Agent may examine records of the establishment to obtain information pertaining to food and supplies purchased, received or used, persons employed, and employee training records, but not including financial records. Refusal to allow entry to inspect shall result in a presumption that the establishment presents an immediate and substantial hazard to the public health, and the Director of Health shall issue a Notice of Violation/Order of Abatement that requires immediate access to the establishment or the establishment will be ordered to close.

XVI. Food From Establishments Outside Of Darien

Food from food service establishments outside the jurisdiction of the Darien Health Department may be sold in the Town if such food service establishments conform to the provisions of the Connecticut Public Health Code. To determine the extent of compliance with such provisions, the Director of Health or his Authorized

Agent may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.

XVII. Penalties

Violation of these Regulations and Regulations of Connecticut State Agencies are subject to the penalties provided for in Sections 19a-36, 19a-220, and 19a-230 of the Connecticut General Statutes, and Sections 19-13-B1& 2 of the Regulations of Connecticut State Agencies.

XVIII. Severability

Should any section, paragraph, sentence, clause, or phrase of this regulation be declared by a court of competent jurisdiction, to be unconstitutional or invalid for any reason, the remainder of the regulation shall not be affected thereby.

XIX. Date of Effect

This regulation shall be in full force and effect on July 1, 2009 by David Knauf, Director of Health, signed and dated _____.

Appendix 1

Summary of violations associated with major risk factors

from the Inspection Report of Food Service Establishments as published by the State of Connecticut
Department of Public Health (focused inspection 1/2002)

Food Source

#1. Approved Source, wholesome, non-adulterated

Food Temperature

#3. Potentially hazardous food meets temperature requirements during storage, preparation, display, service and transportation

#4. Adequate facilities to maintain product temperature, thermometers provided

Personal Hygiene

#9. Handling of food minimized

#12. Personnel with infection restricted

#13. Handwashing facilities provided (adequate handwashing practiced)

#15. Good hygienic practices

#38. Suitable hand cleaner and drying provided

Cross contamination / Contaminated equipment

#7. Food protected during storage, preparation, display, service and transportation

#24. Sanitization rinse (hot water – chemical)

#25. Clean wiping cloths

#26. Food contact surfaces of utensils and equipment clean

#30. Hot and cold water under pressure, provided as required

Personnel

#60. Qualified Food Operator

#61. Designated Alternate

#62. Written documentation of training program

Note: Any modifications to Appendix 1 would be in accordance with modifications in the regulations or standards as promulgated by the Connecticut Department of Public Health